

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

Telecommunications Carriers Eligible for Universal Service Support)	WC Docket No. 09-197
)	
Lifeline and Link Up Reform and Modernization)	WC Docket No. 11-42
)	
Petition of Buffalo-Lake Erie Wireless Systems Co., L.L.C. d/b/a Blue Wireless for Designation as a Low-Income Eligible Telecommunications Carrier)	

To: The Commission

Petition for Designation as a Low-Income Eligible
Telecommunications Carrier in New York, Including Tribal

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Pursuant to section 214(e)(6) of the Communications Act, as amended,¹ and the relevant provisions of the Commission's rules,² Buffalo-Lake Erie Wireless Systems Co., L.L.C. d/b/a Blue Wireless ("Blue Wireless") requests that the Commission designate it as an eligible telecommunications carrier ("ETC") for the limited purpose of receiving Lifeline support in New York (the "State"), including on specified Tribal land in the State.

I. INTRODUCTION & SUMMARY

Blue Wireless is a facilities-based telecommunications carrier that seeks approval to serve Lifeline-eligible customers in the State. The requested ETC designation will promote the public interest by providing eligible low-income consumers a choice of a significant new facilities-based competitor in the marketplace for Lifeline services. Blue Wireless's entry into the Lifeline market will create competitive pressure on all Lifeline providers, resulting in a

¹ 47 U.S.C. § 214(e)(6).

² 47 C.F.R. § 54.202.

higher level of service quality, more competitive pricing and advantageous service options for Lifeline service for eligible consumers in the State.

As discussed below, Blue Wireless meets all statutory and regulatory prerequisites for ETC designation. Furthermore, the public interest would be greatly served by granting this petition, enabling Blue Wireless to advance universal service in the State by serving the basic and advanced communications needs of low-income consumers.

II. BACKGROUND

Blue Wireless is a facilities-based, regional provider of competitively-priced wireless voice, messaging, and data services. Blue Wireless offers its customers nationwide coverage through numerous roaming arrangements. The company holds a number of Commercial Mobile Radio Service (“CMRS”) licenses issued by the Commission. At the end of 2012, it had approximately 15,000 mobile customers. Blue Wireless has deployed an advanced mobile wireless telecommunications network capable of serving consumers’ basic and advanced communications needs, and provides high service quality and customer care. Blue Wireless’s designation as a Lifeline ETC will create competitive pressure on existing Lifeline providers, to the benefit of Lifeline consumers in the State.

III. THE COMMISSION HAS AUTHORITY TO GRANT THE ETC DESIGNATION

Section 254(e) of the Act provides that “only an eligible telecommunications carrier designated under Section 214(e) shall be eligible to receive specific Federal universal service support.”³ The Act reserves the authority to designate entities as ETCs to state public utility commissions (“PUCs”). Pursuant to Section 214(e)(6), however, the Commission may designate as an ETC “a common carrier providing telephone exchange service and exchange access that is

³ 47 U.S.C. § 254(e).

not subject to the jurisdiction of a State commission.”⁴ The Commission has established that a carrier must demonstrate that it “is ‘not subject to the jurisdiction of a state commission’” before it may consider an application for ETC designation.⁵ The Commission also has stated that any carrier seeking ETC designation from it must provide the Commission with an “affirmative statement” from the state PUC that it lacks jurisdiction to perform the ETC designation.⁶ New York has made it clear that it lacks authority to perform ETC designations for wireless carriers such as Blue Wireless. This documentation is attached as Exhibit B.

In addition, Blue Wireless requests designation in Tribal areas in the State. Specifically, Blue’s licensed service area includes the Allegany Indian Reservation and the Cattaraugus Indian Reservation (the “Tribal Areas”), which are “federally designated Tribal lands” under the Lifeline rules.⁷

Blue Wireless has already reached out to the Seneca Nation Tribe (which controls the Tribal Areas) to initiate a dialogue regarding this application, and has communicated with the New York State Public Service Commission (“New York PSC”) regarding this petition. Additionally, consistent with the FCC’s rules, Blue Wireless is serving the Tribal government and/or Tribal regulatory authority at the Allegany Indian Reservation and the Cattaraugus Indian Reservation contemporaneously with the filing of this Petition.⁸

⁴ See *id.* § 214(e)(6).

⁵ See *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, CC Docket No. 96-45, Public Notice, 12 FCC Rcd 22947, 22948 (1997).

⁶ See *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12264 ¶ 113 (2000).

⁷ 47 C.F.R. § 54.400(e).

⁸ *Id.* § 54.202(c).

Accordingly, for New York and the Tribal Areas of the State, Blue Wireless requests that the Commission exercise its authority under Section 214(e)(6) and determine that Blue Wireless is “a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission.”⁹

IV. BLUE WIRELESS MEETS THE STATUTORY AND REGULATORY PREREQUISITES FOR ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION

As demonstrated herein, Blue Wireless meets the requirements for designation as an ETC as established under the statute¹⁰ and FCC rules.¹¹ In particular, Blue Wireless:

1. is a common carrier;¹²
2. will offer the services supported by federal universal service support mechanisms within its Lifeline service offerings, which will be made available to qualifying low-income consumers;¹³
3. will use its own facilities to provide the supported services;¹⁴
4. will provide Lifeline service, including all of the supported services, throughout its designated service area;¹⁵
5. will advertise the availability of its Lifeline universal service offerings and charges for such offerings using media of general distribution;¹⁶
6. will meet the additional application requirements established by the FCC by:
 - a) certifying that it will comply with the service requirements applicable to the support that it receives;¹⁷

⁹ 47 U.S.C. § 214(e)(6).

¹⁰ *Id.* § 214(e)(1).

¹¹ 47 C.F.R. § 54.201(d).

¹² 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d).

¹³ 47 U.S.C. § 214(e)(1)(A); 47 C.F.R. §§ 54.201(d)(1) and 54.405.

¹⁴ 47 U.S.C. § 214(e)(1)(A); 47 C.F.R. § 54.201(d)(1).

¹⁵ 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d).

¹⁶ 47 U.S.C. § 214(e)(1)(B); 47 C.F.R. § 54.201(d)(2).

b) demonstrating it is able to remain functional in emergency situations;¹⁸

c) demonstrating it will satisfy consumer protection and service quality standards;¹⁹

d) demonstrating that it is financially and technically capable of providing Lifeline service in compliance with the Lifeline rules; and²⁰

e) distributing information on its Lifeline service offering.²¹

7. will comply with all applicable reporting requirements and additional conditions; and,

8. will take steps to help prevent waste, fraud, and abuse of the USF.

Furthermore, Blue Wireless's designation as an ETC serves the public interest by expanding customer choice and increasing service availability.²²

Blue Wireless's compliance with each of the applicable requirements to obtain designation as an ETC is further discussed below.

A. BLUE WIRELESS IS A COMMON CARRIER

Blue Wireless is regulated as a common carrier in connection with its provision of CMRS.²³ As such, Blue Wireless certifies that it is a common carrier under 47 U.S.C. §§ 214(e)(1) and 214(e)(6) for purposes of ETC designation.²⁴ Therefore, Blue Wireless meets the ETC requirement of being a common carrier.

¹⁷ 47 C.F.R. § 54.202 (a)(1)(i).

¹⁸ *Id.* § 54.202(a)(2).

¹⁹ *Id.* § 54.202(a)(3).

²⁰ *Id.* § 54.202(a)(4).

²¹ *Id.* § 54.202(a)(5).

²² 47 U.S.C. § 214(e)(2).

²³ 47 C.F.R. § 20.9.

²⁴ 47 U.S.C. § 214(e)(1), (e)(6).

B. BLUE WIRELESS OFFERS THE SERVICES SUPPORTED BY THE FEDERAL UNIVERSAL SERVICE SUPPORT MECHANISMS

As described below, Blue Wireless provides voice telephony service supported by federal universal service support mechanisms, including the following capabilities:

1. Voice Grade Access To The Public Switched Telephone Network²⁵ – Blue Wireless meets this requirement through its provision of mobile voice communications service and interconnection to the public switched telephone network.
2. Local Usage – an amount of minutes of use provided free of charge to end users.²⁶ Blue Wireless meets this requirement by providing an amount of local usage free of charge in each universal service rate plan.
3. Access To Emergency Services – access to emergency services includes access to both 911 and E911 services to the extent the local government has implemented such services.²⁷ Blue Wireless meets this requirement by providing 911 service and meeting all requests for E911 service from local public service answering points to the extent local governments in Blue Wireless’s service area have implemented 911 or enhanced 911 systems.
4. Toll Limitation For Qualifying Low-Income Consumers – toll limitation means both toll blocking and toll control, or, if a carrier is not capable of providing both toll blocking and toll control, then toll limitation is defined as either toll blocking or toll control.²⁸ Upon implementing any Lifeline service offering that distinguishes between toll and non-toll calls, Blue Wireless will offer toll limitation to qualifying low-income consumers at no additional charge. However, Blue Wireless’s typical service offerings do not distinguish between toll and non-toll calls and therefore toll limitation service is not applicable.²⁹

²⁵ 47 C.F.R. § 54.101(a).

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*; *id.* § 54.400(d).

²⁹ In its *Lifeline Reform Order*, the FCC stated “[i]n this Order, we relieve ETCs of the obligation to offer [toll limitation service (“TLS”)] in the first instance if their Lifeline offering does not distinguish in the pricing of toll and non-toll calls, which may relieve many ETCs of the obligation to offer TLS.” *Lifeline and Link Up Reform and Modernization; Lifeline and Link Up; Federal-State Joint Board on Universal Service; Advancing Broadband Availability Through Digital Literacy Training; Lifeline & Link Up Reform & Modernization, Report and Order and Further Notice of Proposed Rulemaking*, WC Docket Nos. 11-42, 03-109 and 12-23;

C. *BLUE WIRELESS IS A FACILITIES-BASED WIRELESS TELECOMMUNICATIONS CARRIER*

Blue Wireless is a facilities-based wireless telecommunications carrier with its own switching, cell sites, and associated telecommunications facilities throughout its proposed designated ETC service area and, therefore, meets the applicable facilities-based requirements for ETCs.³⁰ The Company uses radio licenses issued by the Commission to provide CMRS and will use its own network facilities to provide Lifeline service to eligible consumers in its requested ETC Service Area.

D. *BLUE WIRELESS WILL PROVIDE SERVICE THROUGHOUT ITS DESIGNATED SERVICE AREA*

Blue Wireless commits to provide Lifeline service, including all of the supported services, throughout its designated service area, consistent with all applicable requirements. Blue Wireless's requested designated ETC service area is its wireless coverage area, which includes the telephone company study areas identified in Exhibit A. The proposed designated areas include federally designated Tribal lands, as discussed above.³¹

E. *BLUE WIRELESS WILL ADVERTISE THE AVAILABILITY OF ITS LOW-INCOME OFFERINGS AND CHARGES FOR SUCH OFFERINGS USING MEDIA OF GENERAL DISTRIBUTION*

Blue Wireless will advertise the availability of, and charges for, its Lifeline service offerings using media of general distribution, and will undertake outreach initiatives to increase consumer awareness of Blue Wireless's Lifeline service offering, consistent with all applicable

CC Docket No. 96-45, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656, 6759 ¶ 238 (2012) ("*Lifeline Reform Order*"). Blue Wireless has not previously and has no plans to charge Lifeline customers for any TLS provided.

³⁰ 47 U.S.C. § 214(e)(1)(A); 47 C.F.R. § 54.201(d)(1).

³¹ See *supra* Section III.

requirements.³² Blue Wireless currently offers and advertises its wireless telecommunications services, including those offerings that include all of the supported services, using radio, television, billboards, transit, print, Internet, and targeted mailings, among others. In addition, Blue Wireless maintains various retail stores throughout its proposed ETC designated service area. Blue Wireless will use the appropriate media outlets to advertise its universal service offerings in a manner consistent with applicable requirements.

Blue Wireless also commits to explain in clear, easily understood language in marketing materials used to describe the service (1) that the offerings are Lifeline-supported services, (2) that only eligible consumers may enroll in the program, (3) the documentation that is necessary for enrollment, (4) that the program is limited to one benefit per household consisting of either wireline or wireless service, (5) that Lifeline is a government benefit program, (6) that consumers who are existing Lifeline customers of another carrier can only become a Lifeline customer of Blue Wireless if they notify their existing Lifeline carrier provider that such consumer is discontinuing their existing Lifeline service, and (7) that consumers who willfully make false statements in order to obtain the benefit can be punished by fine or imprisonment and can be barred from the program. For purposes of this commitment, to the extent required by rules, “the term ‘materials describing the service’ includes all print, audio, video, and web materials used to describe or enroll in the Lifeline service offering, including application and certification forms.”³³

F. *BLUE WIRELESS MEETS THE ADDITIONAL REQUIREMENTS FOR DESIGNATION AS AN ETC*

1. Certify Compliance With Applicable Requirements

³² See 47 C.F.R. §§ 54.401-54.417; 54.405(b).

³³ *Id.* § 54.405(c).

Blue Wireless certifies that it will comply with all applicable requirements related to receipt of low-income support, consistent with 47 C.F.R. § 54.202(a)(1)(i).

2. Ability to Function in Emergency Situations

Blue Wireless has the “ability to remain functional in emergency situations” as required.³⁴ Blue Wireless has back-up power (either battery- or generator-supplied) sufficient to ensure functionality in the designated service area without an external power source for a reasonable period of time, is able to re-route traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations. Blue Wireless technicians and engineers are trained to deploy in response to service outages and emergency situations.

3. Consumer Protection and Service Quality Standards

Blue Wireless will satisfy applicable consumer protection and service quality standards in accordance with 47 C.F.R. § 54.202(a)(3). Blue Wireless agrees to abide by the CTIA-The Wireless Association® Consumer Code for Wireless Service (“Consumer Code”).

Blue Wireless also provides its customers with other service quality and consumer protection benefits. Blue Wireless is a local company serving the needs of individuals and businesses in the Buffalo/Lake Erie region. Unlike national providers, Blue Wireless’s managers and employees are located in the region and are finely attuned to market needs in that area. As a result, Blue Wireless has a record of excellence in customer satisfaction. Moreover, as a result of its highly attractive no-contract wireless plans, Blue Wireless is already serving some consumers, such as the credit-challenged, that typically are the beneficiaries of the Lifeline program. Designating Blue Wireless as a Lifeline ETC will permit the company to expand the

³⁴ *Id.* § 54.202(a)(2).

low-cost options available to its customers while allowing those customers to retain the benefits of receiving service from a local company that is focused on their needs and satisfaction.

In addition, Blue Wireless maintains policies for consumer privacy protections, as detailed in Blue Wireless's Privacy Policy available at the company's website (www.blueunlimited.com).

4. Financial and Technical Capability To Provide Lifeline Service and Information on Lifeline Service Offering

In the *Lifeline Reform Order*, the FCC adopted a rule requiring Lifeline-only ETC applicants to demonstrate financial and technical capability to provide Lifeline service in compliance with applicable requirements.³⁵ In explaining this new requirement, the FCC stated:

Among the relevant considerations for such a showing would be whether the applicant previously offered services to non-Lifeline consumers, how long it has been in business, whether the applicant intends to rely exclusively on USF disbursements to operate, whether the applicant receives or will receive revenue from other sources, and whether it has been subject to enforcement action or ETC revocation proceedings in any state.³⁶

Blue Wireless has provided service since 2004. As demonstrated herein, Blue Wireless is a well-established facilities-based wireless telecommunications carrier with a history of providing service to non-Lifeline consumers and does not intend to rely exclusively on Universal Service Fund ("USF") disbursements. Blue Wireless receives revenue from several non-USF sources.

Blue Wireless has not been subject to ETC-related enforcement action or ETC revocation proceedings in any state. Blue Wireless has not been subject to any FCC enforcement action. In addition, Blue Wireless is a holder of numerous FCC CMRS licenses. Deploying a facilities-based wireless communications network such as Blue Wireless's requires considerable financial

³⁵ *Id.* §54.202(a)(4).

³⁶ *Lifeline Reform Order* ¶ 388.

and technical capability. In addition, as a CMRS licensee, Blue Wireless has independent obligations and incentives to comply with Commission rules.³⁷

In sum, as a licensed carrier with a well-established track record of providing quality mobile voice and data services to non-Lifeline customers, Blue Wireless has made the requisite showing of financial and technical capability.

G. *ADDITIONAL STEPS TO PREVENT WASTE, FRAUD, AND ABUSE*

In its *Lifeline Reform Order* released on February 6, 2012, the Commission adopted comprehensive reforms to the low-income program to revise and modernize the Lifeline service requirements and implement measures to address waste, fraud and abuse within the system. Blue Wireless has thoroughly reviewed the *Lifeline Reform Order* and all newly-adopted requirements and will implement the necessary internal controls and processes to ensure compliance with the Commission's final rules and any subsequent orders. Blue Wireless will implement numerous safeguards to protect the integrity of the Lifeline system, including the following:

A. Policy. Blue Wireless will comply with the minimum federal certification and verification requirements for Lifeline eligibility and any additional requirements established by the states where it is designated as an ETC. In addition to any state-imposed requirements, Blue Wireless will certify at the outset and will verify annually consumers' Lifeline eligibility in accordance with the Commission's requirements. As part of the annual certification process, Blue Wireless will require that every Lifeline customer's annual certification form be properly and timely executed and entered into our compliance systems prior to extending any benefits for the next year.

³⁷ By contrast, for example, entities can readily exit and re-enter a business such as resale because the FCC has granted blanket section 214 authority for entities to operate as carriers. 47 C.F.R. § 63.01.

B. Detailed Customer Enrollment Process. Blue Wireless will establish a uniform process for the enrollment of subscribers who elect Blue Wireless's Lifeline offering and qualify for Lifeline support. By doing so, Blue Wireless will ensure that its enrollment and verification practices meet the needs of all customers, in a variety of situations, while recognizing that it must maintain strict compliance with all applicable requirements.

Blue Wireless will establish a process to conform to the requirements of the *Lifeline Reform Order* to prevent waste, fraud, and abuse of the universal service system. To safeguard against misuse of the Lifeline service plan, Blue Wireless will collect initial and annual certifications required by the *Lifeline Reform Order*. Blue Wireless will establish safeguards to prohibit more than one supported service for each household. Blue Wireless proposes the following plan to implement these certification and verification requirements and will modify the plan to conform to any new rules and orders, once effective:

C. Certification Procedures. To ensure that it provides Lifeline service only to eligible consumers, Blue Wireless will sell Lifeline service only through in-person sales in its company-owned stores, which are staffed by its own employees.³⁸ Specific information will be made available to educate consumers about the one per household and other applicable rules. At all Blue Wireless locations where customers can sign up for Blue Wireless's Lifeline service, Blue Wireless will make available information regarding the program, including among other things the limit of one Lifeline subsidy per household. Blue Wireless's Lifeline customer application form (attached as Exhibit C) requires customers to make the required certifications that they are

³⁸ Once Blue Wireless has substantial experience with the certification procedures under the Lifeline program, Blue Wireless may expand its sales efforts to include sales on its website, but before doing so will inform the Commission and USAC and describe its plans for doing so.

not receiving Lifeline from any other carrier and also lists the two Lifeline providers serving the most Lifeline customers nationally.

Blue Wireless will provide thorough initial and ongoing training in the Lifeline rules to all of its staff that are responsible for the processing of consumers' applications and reviewing eligibility documentation. Blue Wireless will ensure that all required documentation is properly reviewed by using compliance checklists.

Blue Wireless's customer application form for its Lifeline service (attached here as Exhibit C) identifies that it is a "Lifeline" application. Applicants who need assistance to determine if their residence qualifies as a shared, multi-household dwelling will be offered USAC's household worksheet that was developed pursuant to the *Lifeline Reform Order*.

Consumers will be required to return their completed and signed applications along with supporting documentation to Blue Wireless in its company-owned retail stores located throughout the proposed service area in the State. In the future, should the company decide to use an electronic application process, consistent with Commission regulations, the company will develop a system to accept electronic signatures that meets the requirements of the Electronic Signatures in Global and National Commerce Act, 15 USC § 7001-7006, and any applicable state laws, as well as offering options for consumers to submit documentation demonstrating their eligibility for Lifeline, with appropriate provisions to secure such documentation and retain or not retain it as required by law.

The Blue Wireless Lifeline application form lists each of the qualifying programs, and applicants will be required to identify the program(s) in which they participate, and to furnish documentation evidencing their participation in such program(s). For eligible residents of Tribal lands, Blue Wireless will ensure that the forms permit such residents to qualify based upon the

additional programs available to eligible residents of Tribal lands.³⁹ Applicants qualifying based on income will be required to certify under penalty of perjury that their household income does not exceed the relevant threshold (e.g., 135% of the Federal Poverty Guidelines) and will be required to provide proof of income-based eligibility consistent with Commission requirements.⁴⁰ For eligible residents of Tribal lands, Blue Wireless will ensure that such residents may use a Tribal tax return or Tribal notice letter consistent with FCC rules for determining income-based eligibility.⁴¹ Blue Wireless will not retain copies of this information, but will document what information was provided. In addition, the Lifeline application form includes a certification section where the applicant must attest and sign under penalty of perjury that the applicant's representations are true and correct. Applicants will also be required to certify under penalty of perjury that they receive Lifeline-supported service only from Blue Wireless.

To the extent that USAC's disclosure and application form that may be developed pursuant to the *Lifeline Reform Order* duplicates these disclosures, Blue Wireless's certification form may be modified to eliminate duplication or eliminated outright if fully covered by the USAC certification form. If appropriate, Blue Wireless will use the USAC-developed certification form.

Customers will also be provided a verification form consistent with parameters described in the annual verification section described below.

³⁹ 47 C.F.R. § 54.409(b).

⁴⁰ The *Lifeline Reform Order* clarified that all eligible residents of Tribal lands can qualify for Lifeline based upon income criteria. *Lifeline Reform Order* § 153.

⁴¹ 47 C.F.R. § 54.410(b)(1)(i)(B).

The forms will require applicants to provide their name and residential address, and a billing address if different. Eligible residents of Tribal lands can self-certify that they live on Tribal land and are an “eligible resident of Tribal lands” as defined in 47 C.F.R. § 54.400(e), consistent with the Lifeline Reform Order.⁴² Blue Wireless staff will incorporate this information into Blue Wireless’s customer information database. Staff also will collect a customer’s date of birth and last four digits of the customer’s Social Security Number or Tribal identification number as required by the new Lifeline rules. Prior to initiating service for a customer, Blue Wireless staff will check the name and address of each Lifeline applicant (and the personal information required for verification) against the Blue Wireless database to determine whether it is associated with a customer who already receives Lifeline-supported service. Staff will review the application to ascertain whether the applicant is attempting to receive Lifeline-supported service for more than one handset associated with the address. Once a national Lifeline database is operational, Blue Wireless will also check the name and address of the Lifeline applicant against this database prior to initiating service. If the Lifeline applicant or address is listed as a duplicate, the applicant will be required to complete the certification developed by USAC to show that the applicant lives at a multiple-household address.

Blue Wireless shares the Commission’s concern about abuse of the Lifeline program and is committed to adhering to the safeguards stated herein in the belief that these safeguards will mitigate abuse of the program.

D. Verification Procedures. Blue Wireless will require every consumer enrolled in the Lifeline program to verify on an annual basis, as required by federal rules, that they receive Lifeline service from only one ETC, and will assist consumers in understanding this key Lifeline

⁴² *Lifeline Reform order* ¶¶ 164, 166. Since Tribal addresses are difficult to impossible to determine, the Commission permitted self-certification for residents of Tribal land.

requirement by explaining that consumers potentially could be receiving Lifeline benefits through various types of providers and, until a permanent solution exists to curtail duplicates across the industry, by identifying the two Lifeline providers serving the most Lifeline customers nationally as examples. Blue Wireless will notify all participating Lifeline customers annually that they must confirm their continued eligibility in accordance with the applicable requirements. Currently, Blue Wireless plans to provide notification to customers by mail via the U.S. Postal Service to the address the subscriber has on record with Blue Wireless. (In the future, to the extent feasible, this notification may be provided via electronic means such as e-mail, text message or a web-based notice.) The notice will explain the actions the customer must take to retain Lifeline benefits, when Lifeline benefits may be terminated, and how to contact Blue Wireless. Customers will have 60 days to complete the form, certify under penalty of perjury that they receive Lifeline service only from Blue Wireless, and return the form to Blue Wireless by mail, fax, or other means that may be developed in the future. The form will remind customers that Lifeline is a federal benefit, that it is only available for one line per household, that “household” in the context of the certification means any individual or group thereof who live together at the same address and share income and expenses, and that a household may not have Lifeline service from multiple providers. The form will include a statement that violation of these rules constitutes a violation of the program’s rules that will result in immediate de-enrollment from the program and could be the basis for federal criminal prosecution. Anyone who does not respond to the mailing and certify their continued eligibility will be de-enrolled from the Lifeline program. Blue Wireless will report annually on its verification and re-verification procedures as required by the recently amended section 54.416 of the Commission’s Rules.

E. Customer Education with Respect to Duplicates. To supplement its verification and certification procedures and to better ensure that customers understand the Lifeline service restrictions with respect to duplicates, Blue Wireless will ensure that its marketing and advertising also help to prevent duplicate Lifeline benefits being awarded to the same household.

1) Marketing, Advertising and Website Content. Blue Wireless, in its marketing materials, will reinforce the limitation of one Lifeline phone per household.

2) Other Marketing Requirements. In addition to reminding consumers of the one-per-household rule, Blue Wireless will comply with the other marketing requirements in the *Lifeline Reform Order*, as applicable, and will explain in its marketing materials used to describe the service that the offerings are Lifeline-supported services, only eligible consumers may enroll, Lifeline is a government benefit program, and other required information. These statements will also appear on the company's website (www.blueunlimited.com/lifeline) on the customer information/education page.

As the processes discussed above demonstrate, Blue Wireless has taken and will continue to take strong steps to protect against waste, fraud, and abuse within the Lifeline universal service system.

V. BLUE WIRELESS WILL MAKE VALUABLE LIFELINE OFFERINGS AVAILABLE TO LOW-INCOME CONSUMERS

Following its designation as an ETC, Blue Wireless will make available to qualified low-income consumers a discounted, facilities-based service offering that meets all applicable Lifeline requirements. Consumers increasingly rely on their mobile phones for all of their communications needs, and qualifying low-income consumers are no exception. Low-income consumers would be the beneficiaries of Blue Wireless's Lifeline service offering.

Blue Wireless's planned initial Lifeline service offering is summarized below. Blue Wireless intends to expand its Lifeline offerings as it obtains Lifeline ETC status through this petition. As it does so, Blue Wireless will implement its Lifeline service offerings consistent with all applicable requirements.

Blue Wireless Proposes 3 Lifeline Plans:

- Plan 1-A \$9.25 per month base rate less the applicable Lifeline discount of \$9.25 resulting in a Free plan to the customer
 - a. Plan 1 includes:
 - i. 500 any distance domestic voice minutes
 - ii. 500 text messages
- Plan 2- A \$24.25 per month base rate less the applicable Lifeline discount of \$9.25 resulting in a \$15 cost per month plan for the customer
 - a. Plan 2 includes:
 - i. Unlimited domestic any distance voice minutes
 - ii. Unlimited text messages
 - iii. 100MB of data usage
- Plan 3- A \$34.25 per month base rate less the applicable Lifeline discount of \$9.25 resulting in a \$25 cost per month plan for the customer
 - a. Plan 3 includes:
 - i. Unlimited domestic any distance voice minutes
 - ii. Unlimited text messages
 - iii. Unlimited data usage* (subject to fair use policy)
- Affordable handsets available with all plans

All of Blue Wireless's service plans, including all Lifeline plans, require a \$15 service initiation charge. Blue Wireless's Lifeline offering provides consumers additional benefits. For example, calls to 911 and to customer service will be free calls, regardless of whether the customers have sufficient remaining minutes available in their account, and those calls will not be deducted from the monthly included minutes or charged as additional minutes. Additionally, qualified consumers who subscribe to Blue Wireless's Lifeline offering are not charged a fee to recover federal universal service fund contributions or other non-tax related government-related

surcharges (including the fee for the cost of local number portability). In addition to voice services, Blue Wireless's Lifeline customers (like all of its customers) will also have access to a variety of other standard features at no additional charge, including voice mail, caller identification and call-waiting services.

In addition, in the Tribal Areas, Blue Wireless will provide additional Tribal Lifeline Plans. Consistent with the Lifeline rules, these plans use the Tribal lands support amount⁴³ to reduce the cost of generally available Blue Wireless residential service plans or packages that provide voice telephony service.⁴⁴ Specifically, Blue Wireless will make available its unlimited talk, text, and 1x) data plan (which Blue Wireless sells to non-Lifeline residents of non-Tribal areas in Pennsylvania for \$36) at no charge to eligible residents of Tribal land (i.e., Blue Wireless will make this plan available in exchange for the \$34.24 Tribal subsidy). Customers on this plan may purchase 3G data service at \$10 per GB. This plan provides significantly more voice minutes than Blue Wireless's non-Tribal Lifeline offering in exchange for the additional subsidy amount – the Tribal plan includes unlimited minutes at no charge to the Tribal Lifeline customer, while Blue's non-Tribal offering at no charge includes only 500 voice minutes. In addition, as noted above, the Tribal offering also includes unlimited texting and 1x) data. Blue Wireless certifies that pursuant to FCC rules, it will pass through the full Tribal support amount to qualifying residents of Tribal lands.⁴⁵ Additionally, Blue Wireless affirms that it will collect no more from the Universal Service Fund than its charges to eligible residents of Tribal land, up to a maximum of \$34.25.⁴⁶

⁴³ 47 C.F.R. § 54.403(a)(2).

⁴⁴ *Id.* § 54.403(b)(1).

⁴⁵ *Id.* § 54.403(a)(2).

⁴⁶ *Lifeline Reform Order* ¶ 270.

VI. DESIGNATING BLUE WIRELESS AS AN ETC IS IN THE PUBLIC INTEREST

Currently, Blue Wireless serves the mobile communications needs of consumers in the State, and, through its proposed Lifeline offering, Blue Wireless plans to expand its business in those states by making available to low-income consumers a new, more affordable service offering that meets their basic and advanced communication needs. As a CMRS provider, Blue Wireless is not subject to universal service obligations today in the State but, as a Lifeline-only ETC, Blue Wireless will be entering the universal service market and, by doing so, will be subject to the universal service obligations discussed above.

Designating Blue Wireless as a Lifeline ETC will bring important public interest benefits. Blue Wireless is a local company serving the needs of individuals and businesses in the Buffalo/Lake Erie region. Unlike national providers, Blue Wireless's managers and employees are located in the region and are finely attuned to market needs in that area. As a result, Blue Wireless has a record of excellence in customer satisfaction. Moreover, as a result of its highly attractive no-contract wireless plans, Blue Wireless is already serving some consumers, such as the credit-challenged, that are the beneficiaries of the Lifeline program. Designating Blue Wireless as a Lifeline ETC will allow the company to expand the low-cost options available to its customers while allowing those customers to retain the benefits of receiving service from a local company that is focused on their needs and satisfaction. Because Blue Wireless is a local company, expansion of Blue Wireless's offerings to include Lifeline also will allow the company to continue and increase its employment of residents of the region.

The designation will allow a facilities-based service provider to enter the Lifeline market in the State. This will place significant competitive pressure on other Lifeline providers, to the benefit of low-income consumers and the Lifeline program as a whole. The benefits to low-income consumers will be significant and include: (i) greater customer choice; (ii) a new,

facilities-based Lifeline service offering with competitive pricing, services, and features; (iii) continued contribution to the economy through Blue Wireless's facilities and employment; and (iv) access to a nationwide network and quality, mobile services. The benefits of competition are widely recognized and extend to all markets, including the low income universal service market, as recognized by the FCC:

The additional choice and service options of another wireless [carrier] offering a service for low-income consumers represents a significant benefit for consumers and is in the public interest. A new entrant should incent existing wireless ETCs to offer better service and terms to their customers....⁴⁷

Low-income consumers increasingly rely on wireless services for all their telecommunications needs. Blue Wireless's designation as an ETC will result in low-income consumers having greater access to wireless telecommunications services, particularly from a local, facilities-based carrier, thereby advancing the basic goal of preserving and advancing universal service. Blue Wireless's current Lifeline Plan allows customers to control costs by receiving a preset monthly rate with NO per-minute overage rate. The wireless services that Blue Wireless offers will provide customers with an affordable alternative to traditional telecommunications service.

In summary, Blue Wireless's designation as an ETC will enable the company to make available competitive low-income service offerings to consumers throughout its designated service area. Designating Blue Wireless as an ETC will provide an additional alternative to the existing Lifeline service plans currently being offered and thus will promote competition and advance communication services for the benefit of the residents of the State. As noted above,

⁴⁷ *Federal-State Joint Board on Universal Service; Telecommunications Carriers Eligible for Universal Service Support; i-wireless, LLC Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, CC Docket No. 96-45, WC Docket No. 09-197, Order, 25 FCC Rcd 8784, 8791 ¶ 19 (2010).

Blue Wireless is a local company that is finely attuned to the needs of the residents of the region it serves.

VII. ANTI-DRUG ABUSE CERTIFICATION

Blue Wireless certifies that no party to this petition is subject to denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.

VIII. CONCLUSION

As discussed above, designation of Blue Wireless as a Lifeline ETC in the State accords with the requirements of Section 214(e)(6) of the Act and is in the public interest. For all of the foregoing reasons, Blue Wireless respectfully requests that the Commission designate it as an ETC in the State and in the specified Tribal Areas of the State.

Respectfully submitted,

BUFFALO-LAKE ERIE WIRELESS
SYSTEMS CO., L.L.C. D/B/A BLUE
WIRELESS

L. Charles Keller
WILKINSON BARKER KNAUER, LLP
2300 N Street, NW, Suite 700
Washington, DC 20037
(202) 783-4141

By: /s/ Brian Gelfand
Brian Gelfand
President

4915 Auburn Avenue
Suite 200
Bethesda, MD 20814

August 16, 2013

EXHIBIT A

STATE	STUDY AREA CODE (SAC)	STUDY AREA NAME	RURAL OR NON-RURAL
NY	150121	FRONTIER-ROCHESTER	Non-rural
NY	155130	VERIZON NEW YORK	Non-rural
NY	150071	ARMSTRONG TEL CO-NY	Rural
NY	150072	FRONTIER-AUSABLE VAL	Rural
NY	150073	BERKSHIRE TEL CORP	Rural
NY	150076	CASSADAGA TEL CORP	Rural
NY	150077	CHAMPLAIN TEL CO	Rural
NY	150078	CHAUTAUQUA & ERIE	Rural
NY	150079	CHAZY & WESTPORT	Rural
NY	150081	CITIZENS HAMMOND NY	Rural
NY	150084	TACONIC TEL CORP	Rural
NY	150085	CROWN POINT TEL CORP	Rural
NY	150088	DELHI TEL CO	Rural
NY	150089	DEPOSIT TEL CO	Rural
NY	150091	DUNKIRK & FREDONIA	Rural
NY	150092	EDWARDS TEL CO	Rural
NY	150093	EMPIRE TEL CORP	Rural
NY	150095	FISHERS ISLAND TEL	Rural
NY	150097	GERMANTOWN TEL CO	Rural
NY	150099	HANCOCK TEL CO	Rural
NY	150100	FRONTIER COMM OF NY	Rural
NY	150104	MARGARETVILLE TEL CO	Rural
NY	150105	MIDDLEBURGH TEL CO	Rural
NY	150106	WINDSTREAM NY-FULTON	Rural
NY	150107	NEWPORT TEL CO	Rural
NY	150108	NICHOLVILLE TEL CO	Rural

STATE	STUDY AREA CODE (SAC)	STUDY AREA NAME	RURAL OR NON-RURAL
NY	150109	WINDSTREAM- JAMESTOWN	Rural
NY	150110	OGDEN TEL DBA FRNTER	Rural
NY	150111	ONEIDA COUNTY RURAL	Rural
NY	150112	ONTARIO TEL CO, INC.	Rural
NY	150113	WINDSTREAM RED JACKT	Rural
NY	150114	ORISKANY FALLS TEL	Rural
NY	150116	PATTERSONVILLE TEL	Rural
NY	150118	PORT BYRON TEL CO	Rural
NY	150121	FRONTIER- ROCHESTER	Rural
NY	150122	FRONTIER-SENECA GORH	Rural
NY	150125	STATE TEL CO	Rural
NY	150128	FRONTIER-SYLVAN LAKE	Rural
NY	150129	TOWNSHIP TEL CO	Rural
NY	150131	TRUMANSBURG TEL CO.	Rural
NY	150133	VERNON TEL CO	Rural
NY	150135	WARWICK VALLEY- NY	Rural
NY	154532	CITIZENS-FRONTIER- NY	Rural
NY	154533	CITIZENS-FRONTIER- NY	Rural
NY	154534	CITIZENS-FRONTIER- NY	Rural

EXHIBIT B

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE
THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350

www.dps.state.ny.us

PUBLIC SERVICE COMMISSION

GARRY A. BROWN
Chairman
PATRICIA L. ACAMPORA
MAUREEN F. HARRIS
ROBERT E. CURRY JR.
JAMES L. LAROCCA
Commissioners



PETER McGOWAN
General Counsel

JACLYN A. BRILLING
Secretary

October 28, 2010

TO WHOM IT MAY CONCERN:

Re: Boomerang Wireless CMRS Jurisdiction

We have received a letter from Boomerang Wireless, LLC d/b/a Ready Mobile (Boomerang Wireless), requesting a statement that the New York State Public Service Commission does not exercise jurisdiction over CMRS providers for the purpose of making determinations regarding Eligible Telecommunications Carrier designations under section 214 (e)(6) of 47 U.S.C. In response to this request, please be advised that section 5 (6)(a) of the New York State Public Service Law provides that:

Application of the provisions of this chapter to cellular telephone services is suspended unless the commission, no sooner than one year after the effective date of this subdivision, makes a determination, after notice and hearing, that suspension of the application of provisions of this chapter shall cease to the extent found necessary to protect the public interest.

The New York State Public Service Commission has not made a determination as of this date that regulation should be reinstituted under section 5 (6)(a) of the Public Service Law. Consequently, based on the representation by Boomerang Wireless that it provides wireless service in New York over its own facilities and Sprint's network, the company would not be subject to New York State Public Service Commission jurisdiction for the purpose of making an Eligible Telecommunications Carrier designation.

Very truly yours,

Maureen J. McCauley
Maureen J. McCauley
Assistant Counsel

EXHIBIT C



FOR OFFICE USE ONLY:	Date: _____
Company Representative:	_____
Documentation Verified:	_____
Representative Signature:	_____
Is this a multi-family dwelling:	_____ (Y/N)

Blue Wireless

LIFELINE APPLICATION

This signed authorization is required in order to enroll you in the Lifeline Program in your state. This authorization is only for the purpose of verifying your participation in these programs and will not be used for any other purpose. Service requests will not be processed until this form has been received and verified by Blue Wireless.

Things to know about the Lifeline Program:

1. Lifeline is a Federal Benefit.
2. Lifeline Service is available for only one line per household. A household cannot receive benefits from multiple providers.
3. A household is defined, for purposes of the Lifeline Program, as any individual or group of individuals who live together at the same address and share income and expenses.

Applicant Information:

First Name: _____ MI: ____ Last Name: _____ Date of Birth: Month ____ Day ____ Year ____
Social Security Number (SSN – last four digits only) Or Tribal ID #: _____ Contact Telephone Number: _____

Residence Address (No P.O. Boxes. Must be your principal address):

This address is: ☐ Permanent ☐ Temporary ☐ Multi-House

_____ Apt/Floor/Other _____ City: _____ State: _____ Zip Code: _____

☐ Check this box if you live on federally designated Tribal Lands. (see attached sheet)

Billing Address (May Contain a P.O. Box):

_____ Apt/Floor/Other _____ City: _____ State: _____ Zip Code: _____

Blue Wireless Lifeline Application - Continued

I hereby certify that I participate in at least one of the following programs: (check all that apply)

Supplemental Nutrition Assistance Program (SNAP)	_____	
Supplemental Security Income (SSI)	_____	
Federal Public Housing Assistance	_____	
Low-Income Home Energy Assistance Program	_____	
National School Lunch Program	_____	
Temporary Assistance for Needy Families	_____	
Medicaid	_____	
Bureau of Indian Affairs general assistance	_____	(residents of Tribal Lands only)
Tribal Temporary Assistance for Needy Families	_____	(residents of Tribal Lands only)
Head Start (qualified for Head Start based on Income)	_____	(residents of Tribal Lands only)
Food Distribution Program on Indian Reservations	_____	(residents of Tribal Lands only)

If you do not participate in any of the programs listed above, you qualify for Lifeline if your household income is at or below 135% of the Federal Poverty Guidelines (see attached sheet)

_____ I certify that my household income is at or below 135% of the Federal Poverty Guidelines (FPG).
Initial Here There are _____ individuals in my household.

You must provide proof of your participation in the above programs or your income.

I certify, under penalty of perjury, (Initial by each certification):

- _____ 1. The information contained in my application is true and correct to the best of my knowledge, and I acknowledge that willfully providing false or fraudulent information to receive Lifeline benefits is punishable by law and may result in me being barred from the program.
- _____ 2. I am a current recipient of the program checked above, or have an annual household income at or below 135% of the FPG.
- _____ 3. I have provided documentation of eligibility.
- _____ 4. I understand that I and my household can only have one Lifeline supported telephone service. Blue Wireless has explained the one-per household requirement. I understand that violation of the one-per household requirement constitutes a violation of the FCC's rules and will result in my de-enrollment from the Lifeline Program, and could result in criminal prosecution by the United States Government.
- _____ 5. I attest to the best of my knowledge, that I and no one in my household is receiving a Lifeline supported service from any other land line or wireless company such as Verizon, AT&T, Assurance or Safelink.
- _____ 6. I understand my Blue Wireless Lifeline service is non-transferable. I may not transfer my service to any individual, including another eligible low-income consumer.
- _____ 7. I will notify Blue Wireless within thirty (30) days if I no longer qualify for Lifeline. I understand this requirement and may be subject to penalties if I fail to notify my phone company. Specifically, I will notify my company if:
 - a. I cease to participate in the above federal or state program, or my annual household income exceeds 135% of the Federal Poverty Guidelines, OR
 - b. I am receiving more than one Lifeline supported, OR
 - c. I no longer satisfy the criteria for receiving Lifeline support.

Blue Wireless Lifeline Application - Continued

- _____ 8. I will notify Blue Wireless within thirty (30) days of moving. Additionally, if my address listed above is a temporary address, I understand that I must verify my address with Blue Wireless every ninety (90) days. If I fail to respond to Blue Wirelesses' address verification attempts within thirty (30) days, my Blue Wireless Lifeline service may be terminated.
- _____ 9. Blue Wireless has explained to me that I am required each year to re-certify my continued eligibility for Lifeline. If I fail to do so within thirty (30) days, it will result in the termination of my Blue Wireless Lifeline service.
- _____ 10. I acknowledge, and consent to, that certain information, including my name, DOB, last four digits of SSN or Tribal government identification number, address, telephone number and e-mail will be provided to the Lifeline Administrator or its contractors for purposes of determining eligibility and/or duplicate services.

Applicant Signature

Date

Certification is good for up to one (1) year from the date of signing. This certification must be updated annually to avoid program termination.

Blue Wireless Lifeline Service Application Rules

Individuals are able to enroll in the Lifeline program by demonstrating that their household's annual income is at or below 135% of the Federal Poverty Guidelines. The following table should be used to determine whether a Lifeline applicant is eligible for Lifeline service based on the number of individuals in the applicant's household and the applicant's household annual income:

HOUSEHOLD SIZE	INCOME LEVEL
1	\$15,512
2	\$20,939
3	\$26,366
4	\$31,793
5	\$37,220
6	\$42,647
7	\$48,074
8	\$53,501
For each additional person	Add \$5,427

Source: Federal Register, Vol. 78, No. 16, January 24, 2013, pp. 5182-5183

Applicants must list the number of individuals in the applicant's household on the Lifeline application form. Applicants seeking to qualify for Lifeline service based on their household income must present one of the following documents in order to prove eligibility:

- the prior year's state, federal, or Tribal tax return
- current income statement from an employer or paycheck stub
- a Social Security statement of benefits
- a Veterans Administration statement of benefits
- a retirement/pension statement of benefits
- an Unemployment/Workmen's Compensation statement of benefits
- Federal or Tribal notice letter of participation in General Assistance
- a divorce decree, child support award, or other official document containing income information for at least three months time

The Lifeline service provided by Blue Wireless is a government assistance program. Only one Lifeline service is available per household. Households are not permitted to receive multiple Lifeline benefits whether they are from one or multiple companies, wireless or wireline. Proof of eligibility is required for enrollment and only eligible customers may enroll in Lifeline service. Consumers who willingly make false statements to obtain the benefit can be punished by fine or imprisonment or can be barred from the program. Lifeline is a nontransferable benefit. Lifeline customers may not transfer their benefits to any other person.

"Federally Designated Tribal Lands" include any federally recognized Indian tribe's reservation, pueblo, or colony, including former reservations in Oklahoma; Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act; Indian allotments; and Hawaiian Home Lands.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

Telecommunications Carriers Eligible for Universal Service Support)	WC Docket No. 09-197
)	
Lifeline and Link Up Reform and Modernization)	WC Docket No. 11-42
)	
Petition of Buffalo-Lake Erie Wireless Systems Co., L.L.C. d/b/a Blue Wireless for Designation as a Low-Income Eligible Telecommunications Carrier)	

CERTIFICATE OF SERVICE

Pursuant to 47 C.F.R. 54.202(c), I hereby certify that I caused a true and correct copy of the Petition for Designation as a Low-Income Eligible Telecommunications Carrier in New York, Including Tribal, of Buffalo-Lake Erie Wireless Systems Co., L.L.C. d/b/a Blue Wireless, electronically filed with the Federal Communications Commission ("FCC") via the FCC's Electronic Comment Filing System ("ECFS") on August 16, 2013, to be delivered via USPS Priority Mail to each of the following:

Allegany Indian Reservation
90 Ohiyo Way
Salamanca, NY 14779
(716) 945-1790

Cattaraugus Indian Reservation
12837 Route 438
Irving, New York 14081

Dated this 16th day of August, 2013.

/s/
Marc D. Knox
WILKINSON BARKER KNAUER, LLP
2300 N Street, NW, Suite 700
Washington, DC 20037
(202) 783-4141